

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Case No. CR03-211-JCC
)
v.)
)
LEONARD GARY COOK,)
)
 Defendant.)
)
PROPOSED FINDINGS OF
FACT AND DETERMINATION
AS TO ALLEGED
VIOLATIONS OF SUPERVISED
RELEASE

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on September 10, 2009. The defendant appeared pursuant to a warrant issued in this case. The United States was represented by Nicholas Brown, and defendant was represented by Paula S. Deutsch. Also present was U.S. Probation Officer Brian Facklam. The proceedings were digitally recorded.

SENTENCE AND PRIOR ACTION

Defendant was sentenced on June 18, 2004 by the Honorable John C. Coughenour for Conspiracy and Bank Fraud. He received 18 months of imprisonment and 5 years of supervised release.

On June 2, 2008, the Court ordered that no action be taken after Mr. Cook admitted to cocaine use. His conditions of his supervised release were modified to add 90 days home

1 confinement with electronic monitoring after he again tested positive for the substance. He
2 completed his term of home confinement on November 4, 2008.

3 On March 27, 2009, the Court revoked Mr. Cook's term of supervised release and imposed
4 a term of custody of "time served" (17 days), followed by a two year term of supervised release,
5 with conditions including a 120 day term in a residential reentry program after Mr. Cook used
6 methamphetamine, and failed to appear for drug testing.

7 On June 1, 2009, a violation report and warrant request was submitted alleging that Mr.
8 Cook had violated conditions of his supervised release by using benzodiazepine and
9 methamphetamine; using alcohol; and failing to reside in a residential reentry center as
10 previously ordered. A warrant pursuant to the warrant request was ordered and remains active.

11 On July 25, 2009, Mr. Cook was arrested by officers with the Everett Police Department for
12 vehicle prowling and theft.

**PRESENTLY ALLEGED VIOLATIONS AND
DEFENDANT'S ADMISSION OF THE VIOLATION**

15 In a petition dated June 1, 2009, Supervising U.S. Probation Officer Calvin K. Bouma, Jr.
alleged that defendant violated the following conditions of supervised release:

1. Using benzodiazepines and methamphetamine on or before May 28, 2009, in
17 violation of standard condition 7 and the special condition which prohibits drug use.

19 2. Using alcohol on or before May 28, 2009, in violation of the special condition
which prohibits the use of alcohol.

20 3. Failure to reside in and satisfactorily participate in a residential reentry center
21
program on or about May 29, 2009, in violation of the special condition requiring him to do so.

In a subsequent petition dated August 7, 2009, U.S. Probation Officer Brian Facklam

1 || alleged that defendant violated the following condition of supervised release:

2 4. Committing the crimes of vehicle prowling and theft in violation of the general
3 condition of supervision that he not commit another federal, state, or local crime.

4 The government amended violation 1 to using methamphetamine on or before May 28,
5 2009, in violation of standard condition 7 and the special condition which prohibits drug use.
6 Violation 2 was dismissed. Violation 4 was amended to committing the crime of theft in
7 violation of the general condition of supervision that he not commit another federal, state, or
8 local crime. The government dismissed violation 2. Defendant admitted to amended violation 1,
9 violation 3, and amended violation 4. Defendant waived any hearing as to whether they
10 occurred, and was informed the matter would be set for a disposition hearing on October 2, 2009
11 at 9:00 a.m. before District Judge John C. Coughenour.

RECOMMENDED FINDINGS AND CONCLUSIONS

13 Based upon the foregoing, I recommend the court find that defendant has violated the
14 conditions of his supervised release as alleged above, and conduct a disposition hearing.

15 DATED this 10th day of September, 2009.


BRIAN A. TSUCHIDA
United States Magistrate Judge